SENATE BILL No. 269

DIGEST OF INTRODUCED BILL

Citations Affected: IC 25-26.

Synopsis: Pharmacist matters. Removes the expiration provision that allows pharmacists to refill prescriptions in emergencies. Expands protocols concerning the adjustment of a patient's drug regimen to nursing homes.

Effective: Upon passage; July 1, 2003.

Dillon

January 9, 2003, read first time and referred to Committee on Health and Provider Services.

Introduced

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

SENATE BILL No. 269

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 25-26-13-25, AS AMENDED BY P.L.1-2002, SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. (a) All original prescriptions, whether in written or electronic format, shall be numbered and maintained in numerical and chronological order, or in a manner approved by the board and accessible for at least two (2) years in the pharmacy. A prescription transmitted from a practitioner by means of communication other than writing must immediately be reduced to writing or recorded in an electronic format by the pharmacist. The files shall be open for inspection to any member of the board or its duly authorized agent or representative.

(b) Except as provided in subsection (c) before the expiration of subsection (c) on June 30, 2003, a prescription for any drug, the label of which bears either the legend, "Caution: Federal law prohibits dispensing without prescription" or "Rx Only", may not be refilled without written or oral authorization of a licensed practitioner.

(c) A prescription for any drug, the label of which bears either the

legend, "Caution: Federal law prohibits dispensing without prescription" or "Rx Only", may be refilled by a pharmacist one (1) time without the written or oral authorization of a licensed practitioner if all of the following conditions are met:

(1) The pharmacist has made every reasonable effort to contact the original prescribing practitioner or the practitioner's designee for consultation and authorization of the prescription refill.

(2) The pharmacist believes that, under the circumstances, failure to provide a refill would be seriously detrimental to the patient's health.

(3) The original prescription authorized a refill but a refill would otherwise be invalid for either of the following reasons:

(A) All of the authorized refills have been dispensed.

(B) The prescription has expired under subsection (f).

(4) The prescription for which the patient requests the refill was:

(A) originally filled at the pharmacy where the request for a refill is received and the prescription has not been transferred for refills to another pharmacy at any time; or

(B) filled at or transferred to another location of the same pharmacy or its affiliate owned by the same parent corporation if the pharmacy filling the prescription has full access to prescription and patient profile information that is simultaneously and continuously updated on the parent corporation's information system.

(5) The drug is prescribed for continuous and uninterrupted use and the pharmacist determines that the drug is being taken properly in accordance with IC 25-26-16.

(6) The pharmacist shall document the following information regarding the refill:

(A) The information required for any refill dispensed under subsection (d).

(B) The dates and times that the pharmacist attempted to contact the prescribing practitioner or the practitioner's designee for consultation and authorization of the prescription refill.

(C) The fact that the pharmacist dispensed the refill without the authorization of a licensed practitioner.

(7) The pharmacist notifies the original prescribing practitioner of the refill and the reason for the refill by the practitioner's next business day after the refill has been made by the pharmacist.

(8) Any pharmacist initiated refill under this subsection may not be for more than the minimum amount necessary to supply the

patient through the prescribing practitioner's next business day. However, a pharmacist may dispense a drug in an amount greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day if:

(A) the drug is packaged in a form that requires the pharmacist to dispense the drug in a quantity greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day; or

(B) the pharmacist documents in the patient's record the amount of the drug dispensed and a compelling reason for dispensing the drug in a quantity greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day.

(9) Not more than one (1) pharmacist initiated refill is dispensed under this subsection for a single prescription.

(10) The drug prescribed is not a controlled substance.

A pharmacist may not refill a prescription under this subsection if the practitioner has designated on the prescription form the words "No Emergency Refill". ~~This subsection expires June 30, 2003.~~

(d) When refilling a prescription, the refill record shall include:

(1) the date of the refill;

(2) the quantity dispensed if other than the original quantity; and

(3) the dispenser's identity on:

(A) the original prescription form; or

(B) another board approved, uniformly maintained, readily retrievable record.

(e) The original prescription form or the other board approved record described in subsection (d) must indicate by the number of the original prescription the following information:

(1) The name and dosage form of the drug.

(2) The date of each refill.

(3) The quantity dispensed.

(4) The identity of the pharmacist who dispensed the refill.

(5) The total number of refills for that prescription.

(f) A prescription is valid for not more than one (1) year after the original date of issue.

(g) A pharmacist may not knowingly dispense a prescription after the demise of the practitioner, unless in the pharmacist's professional judgment it is in the best interest of the patient's health.

(h) A pharmacist may not knowingly dispense a prescription after the demise of the patient.

(i) A pharmacist or a pharmacy shall not resell, reuse, or redistribute

a medication that is returned to the pharmacy after being dispensed unless the medication:

(1) was dispensed to a patient residing in an institutional facility (as defined in 856 IAC 1-28-1(a));

(2) was properly stored and securely maintained according to sound pharmacy practices;

(3) is returned unopened and:

(A) was dispensed in the manufacturer's original:

(i) bulk, multiple dose container with an unbroken tamper resistant seal; or

(ii) unit dose package; or

(B) was packaged by the dispensing pharmacy in a:

(i) multiple dose blister container; or

(ii) unit dose package;

(4) was dispensed by the same pharmacy as the pharmacy accepting the return;

(5) is not expired; and

(6) is not a controlled substance (as defined in IC 35-48-1-9), unless the pharmacy holds a Type II permit (as described in IC 25-26-13-17).

(j) A pharmacist may use the pharmacist's professional judgment as to whether to accept medication for return under subsection (h).

(k) A pharmacist who violates subsection (c) commits a Class A infraction.

SECTION 2. IC 25-26-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter, "protocol" means the policies, procedures, and protocols of a:

(1) hospital listed in ~~IC 16-18-2-161(1)~~ **IC 16-18-2-161(a)(1); or**

(2) health facility listed in IC 16-18-2-161(a)(2);

concerning the adjustment of a patient's drug regimen by a pharmacist.

SECTION 3. IC 25-26-16-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) At the time of admission to a hospital **or health facility** that has adopted a protocol under this chapter, the following apply:

(1) The admitting practitioner shall signify in writing in the form and manner prescribed by the hospital **or health facility** whether the protocol applies in the care and treatment of the patient.

(2) A pharmacist may adjust the drug therapy regimen of the patient pursuant to the:

(A) written authorization of the admitting practitioner under subdivision (1); and

(B) protocols of the hospital **or health facility.**

The pharmacist shall review the appropriate medical records of the patient to determine whether the admitting practitioner has authorized the use of a specific protocol before adjusting the patient's drug therapy regimen. The admitting practitioner may at any time modify or cancel a protocol by entering the modification or cancellation in the patient's medical record.

(b) Notwithstanding subsection (a)(2), if a protocol involves parenteral nutrition of the patient, the pharmacist shall communicate with the admitting practitioner to receive approval to begin the protocol. The authorization of the admitting practitioner to use the protocol shall be entered immediately in the patient's medical record.

SECTION 4. IC 25-26-16-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) This section applies to a pharmacist practicing in a:

(1) hospital listed in ~~IC 16-18-2-161(1)~~ **IC 16-18-2-161(a)(1); or**

(2) health facility listed in IC 16-18-2-161(a)(2);

in which the pharmacist is supervised by a physician as required under the protocols of the facility that are developed by health care professionals, including physicians, pharmacists, and registered nurses.

(b) The protocols developed under this chapter must at a minimum require that the medical records of the patient are available to both the patient's practitioner and the pharmacist and that the procedures performed by the pharmacist relate to a condition for which the patient has first seen a physician or other licensed practitioner.

SECTION 5. **An emergency is declared for this act.**